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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/809,198

03/25/2004

Richard E. Forkey

P25-006

5997

34021

7590

10/04/2006

GEORGE A. HERBSTER

40 BEACH STREET

SUITE 303

MANCHESTER, MA 01944

EXAMINER

BEN, LOHA

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/809,198	Applicant(s) FORKEY ET AL.	
	Examiner Loha Ben	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 8 and 21 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6 and 9-20 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>0904;0304;0205</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Claims 2, 4, 11 and 21 are objected to because of the following informalities: In claim 2, line 2, "said" should be deleted, otherwise "said peripheral. . . portions" has no antecedent basis, and line 3, before "first", -- said -- should be inserted; in claim 4, line 1, before "support", -- said -- should be inserted; in claim 11, line 1, before "first", -- said -- should be inserted; and in claim 21, line 4, "the" should be replaced with -- a --, line 11, "an"(first occurrence) should be replaced with -- said --, and line 15, after "engaging", -- said -- should be inserted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 5, 6, 9-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5: line 1, "said means" has no definite antecedent basis in that it is not clear whether the first means or the second means is called for.

Claim 6 depending from claim 5 inherits the indefiniteness thereof.

In claim 9: line 4 calls for "a cylindrical peripheral surface"; but it is not clear whether it is the same as, or different from, the peripheral surface of claim 7.

Claims 10-13 depending from claim 9, directly or indirectly, inherit the indefiniteness thereof.

In claim 14: line 6, "the axis" has no antecedent basis; and bottom line, "said optical device" has no antecedent basis.

In claim 16: line 2, the issue is the same as that raised in claim 9 above, and thus, it is also indefinite.

Claims 15 and 17-20, depending from claim 14, directly or indirectly, inherit the indefiniteness thereof.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by either Nomura et al'559, Sudo et al'114, McCrary('474, '145), or Kobayashi et al'641.

The optical element of claims 1 and 2 reads on lenses 10 and 20, and the first and second support means of claims 1 and 2 read on elements 30 and 35, respectively, of Nomura et al, as now broadly characterized.

Similarly, regarding Sudo et al, vis-à-vis the same claims, reference should be made to elements 1 and 2, and 3 and 5, respectively.

Regarding McCrary, reference should be made to numerals 10b, and 11-15 and 18, respectively.

As for Kobayashi et al, the elements corresponding to the optical element, and the first and second support means of claims 1 and 2 are elements 14, and 10 and 54, respectively.

Allowable Subject Matter

Claims 7, 8 and 21 are allowable.

Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 5, 9 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Loha Ben whose telephone number is (571) 272-2323. The examiner can normally be reached on M-SAT, generally between 12:00 noon to 8:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack, can be reached on M-F, at (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 21, 2006



Loha Ben
Primary Examiner